
A BILL FOR AN ACT

RELATING TO HIGHWAY SAFETY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the prevalence of
2 drivers violating Hawaii's traffic laws, especially on the
3 island of Oahu, has become intolerable, particularly drivers who
4 run red lights. These violations endanger the lives of
5 motorists and pedestrians and compound the already hazardous
6 conditions on Hawaii's roads and highways. It has become
7 increasingly common to hear reports of hit-and-run drivers who
8 have run over children or the elderly. Disregarding traffic
9 signals has also been the common denominator in many recent,
10 highly-publicized motor vehicle crashes that have claimed a
11 number of lives.

12 The legislature further finds that in other jurisdictions
13 in the United States, in Canada, in Europe, and in other
14 countries throughout the world, a technological innovation--
15 namely, photo red light imaging detector systems--has already
16 demonstrated its reliability, efficiency, and effectiveness in
17 identifying and deterring those who run red lights.



1 Photo red light imaging detector systems are safe, quick,
2 cost-effective, and efficient. No traffic stop is involved, and
3 a police officer is not at risk from passing traffic or armed
4 violators. For photo red light imaging detector systems, a
5 camera is positioned at intersections where red light violations
6 are a major cause of collisions and serves as a twenty-four-hour
7 deterrent to run a red light. Sensors are buried under a
8 crosswalk and lead to a self-contained camera system mounted on
9 a nearby structure. When a vehicle enters the intersection and
10 the traffic light is red, the camera takes a telephoto color
11 picture of the rear of the car, capturing the license plate. A
12 second wide-angle photograph takes in the entire intersection,
13 including other traffic.

14 These systems provide numerous benefits. Not only are
15 streets safer, but police officers are freed from time-consuming
16 traffic enforcement activities and have more time to respond to
17 priority calls. A violator is less likely to go to court, since
18 the color photograph of the violation, imprinted with the time,
19 date, and location of the violation, and the number of seconds
20 the light had been red before the violator entered the
21 intersection, can be used as evidence in court. Few cases are



1 contested in other jurisdictions using this system, and officers
2 make fewer court appearances, saving court costs.

3 The system may also result in lower insurance costs for
4 safe drivers through an overall reduction in crashes and
5 injuries and places system costs on the violators who have
6 created the need for the program--not on law-abiding taxpayers.
7 Traffic laws are enforced without partiality, and safety and
8 efficiency are increased by reducing the number of chases and
9 the number of personnel required for traffic accident clean-up,
10 investigation, and court testimony.

11 The legislature finds that the photo speed imaging detector
12 system created by Act 234, Session Laws of Hawaii 1998, and
13 implemented in January 2002, generated intense public opposition
14 to this program. As a result of this opposition, the
15 legislature repealed Act 234 in its entirety. However, the
16 majority of the opposition to this program resulted from the
17 method in which the program was implemented. The public
18 perceived that the program was operated more to maximize revenue
19 for the vendor administering the program than to improve traffic
20 safety. In particular, vans in which the cameras were mounted
21 were often placed at locations that did not necessarily have a
22 history of speed-related accidents and instead were used to



1 monitor locations with heavy traffic flow at lower speeds. This
2 permitted the vendor to issue the maximum number of citations in
3 the shortest period of time and at the least cost, thereby
4 maximizing the potential return to the vendor without improving
5 traffic safety.

6 The purpose of this Act is to:

- 7 (1) Establish a three-year pilot photo red light imaging
8 detector systems program to improve enforcement of the
9 traffic signal laws in all counties with a population
10 in excess of 500,000;
- 11 (2) Authorize fines collected under county programs to be
12 deposited into a general fund;
- 13 (3) Authorizes the county to expend funds from this
14 general fund account for the establishment, operation,
15 management, and maintenance of the photo red light
16 imaging detector systems program; and
- 17 (4) Make an appropriation to the county for implementation
18 and operation of the program.

19 SECTION 2. **Definitions.** As used in this Act, unless the
20 context otherwise requires:

21 "County" means any county with a population in excess of
22 500,000.



1 "County highway" has the same meaning as used in section
2 264-1, Hawaii Revised Statutes.

3 "Department" means the department of transportation.

4 "Motor vehicle" has the same meaning as defined in section
5 291C-1, Hawaii Revised Statutes.

6 "Photo red light imaging detector" means a device used for
7 traffic enforcement that includes a vehicle sensor that works in
8 conjunction with a traffic-control signal and a camera or
9 similar device to automatically produce a photographic, digital,
10 or other visual image of a vehicle that has disregarded a steady
11 red traffic-control signal in violation of section 291C-32,
12 Hawaii Revised Statutes, and a photographic, digital, or other
13 visual image of the driver of the motor vehicle.

14 "State highway" has the same meaning as used in section
15 264-1, Hawaii Revised Statutes.

16 "Traffic-control signal" has the same meaning as defined in
17 section 291C-1, Hawaii Revised Statutes.

18 **PART I**

19 **SECTION 3. Photo red light imaging detector program;**
20 **established.** There is established a pilot photo red light
21 imaging detector program, which may be implemented by any county
22 on state or county highways within the respective county to



1 enforce the traffic-control signal laws of the State. The
2 program shall cease to operate on July 1, 1010.

3 SECTION 4. **County powers and duties.** Each county may
4 establish and implement, in accordance with this Act, a photo
5 red light imaging detector system imposing monetary liability on
6 the registered owner of a motor vehicle for failure to comply
7 with traffic-control signal laws. Each county may provide for
8 the procurement, location, installation, operation, maintenance,
9 and repair of the photo red light imaging detector system.
10 Where the photo red light imaging detector system affects state
11 property, the department shall cooperate with and assist the
12 county as needed to install, maintain, and repair the photo red
13 light imaging detector system established pursuant to this Act.

14 SECTION 5. **Photo red light imaging detector system**
15 **requirements.** (a) Photo red light imaging detector equipment
16 shall be operated from a fixed pole, post, or other fixed
17 structure on a state or county highway.

18 (b) Signs and other official traffic-control devices
19 indicating that traffic signal laws are enforced by a photo red
20 light imaging detector system shall be posted on all major
21 routes entering the area in question to provide, as far as



1 practicable, notice to drivers of the existence and operation of
2 the system.

3 (c) Proof of a traffic-control signal violation shall be
4 as evidenced by information obtained from the photo red light
5 imaging detector system authorized pursuant to this Act. A
6 certificate, sworn to or affirmed by the county's agent or
7 employee, or a facsimile thereof, based upon inspection of
8 photographs, microphotographs, videotape, or other recorded
9 images produced by the system, shall be prima facie evidence of
10 the facts contained therein. Any photographs, microphotographs,
11 videotape, or other recorded images evidencing a violation shall
12 be available for inspection in any proceeding to adjudicate the
13 liability for that violation.

14 (d) No summons or citation pursuant to the photo red light
15 imaging detector program shall be issued unless it contains a
16 clear and unobstructed photographic, digital, or other visual
17 image of the driver of the motor vehicle.

18 (e) The conditions specified in this section shall not
19 apply when the information gathered is used for highway safety
20 research or to issue warning citations not involving a fine,
21 court appearance, or a person's driving record.



1 SECTION 6. Summons or citations. (a) Notwithstanding any
2 law to the contrary, whenever any motor vehicle is determined to
3 have disregarded a steady red signal in violation of section
4 291C-32(a)(3), Hawaii Revised Statutes, by a photo red light
5 imaging detector system, the county shall send a summons or
6 citation, as described in this section, to the registered owner
7 of the vehicle at the address on record at the vehicle licensing
8 division, by certified or registered mail with a return receipt
9 that is postmarked within seventy-two hours of the time of the
10 incident. If the end of the seventy-two hour period falls on a
11 Saturday, Sunday, or holiday, then the ending period shall run
12 until the end of the next day that is not a Saturday, Sunday, or
13 holiday.

14 (b) The form and content of the summons or citation shall
15 be as adopted or prescribed by the administrative judge of the
16 district courts and shall be printed on a form identical with
17 the form of other summonses or citations used in modern methods
18 of arrest, so designed to include all necessary information to
19 make the summons or citation valid within the laws of the State;
20 provided that any summons or citation pursuant to the photo red
21 light imaging detector program shall contain a clear and
22 unobstructed photographic, digital, or other visual image of the



1 driver of the motor vehicle that is to be used as evidence of
2 the violation.

3 (c) Every citation shall be consecutively numbered and
4 each copy thereof shall bear the number of its respective
5 original.

6 (d) Upon receipt of the summons or citation, the
7 registered owner shall respond as provided for in chapter 291D,
8 Hawaii Revised Statutes. A mail receipt signed by the
9 registered owner is prima facie evidence of notification. The
10 registered owner shall be determined by the identification of
11 the vehicle's registration plates.

12 (e) The county, or the county's agent or employee, shall
13 be available to testify as to the authenticity of the
14 information provided pursuant to this section.

15 SECTION 7. Registered owner's responsibility for a summons
16 or citation. In any proceeding for a violation of this Act, the
17 information contained in the summons or citation mailed in
18 accordance with section 6 shall be deemed evidence that the
19 registered vehicle violated section 291C-32(a)(3), Hawaii
20 Revised Statutes.

21 SECTION 8. Prima facie evidence. (a) Whenever the photo
22 red light imaging detector system determines a motor vehicle to



1 be in violation of section 291C-32(a)(3), Hawaii Revised
2 Statutes, evidence that the motor vehicle described in the
3 citations or summons issued pursuant to this Act was operated in
4 violation of the section, together with proof that the person to
5 whom the summons or citation was sent was the registered owner
6 of the motor vehicle at the time of the violation, shall
7 constitute prima facie evidence that the registered owner of the
8 motor vehicle was the person who committed the violation.

9 (b) The registered owner of the vehicle may rebut the
10 evidence in subsection (a) by:

11 (1) Submitting a written statement as provided in section
12 291D-6(b)(2), Hawaii Revised Statutes;

13 (2) Testifying in open court under oath that the person
14 operating the motor vehicle was not the registered
15 owner of the vehicle at the time of the alleged
16 violation;

17 (3) Calling witnesses to testify in open court under oath
18 that the person operating the motor vehicle was not
19 the registered owner of the vehicle at the time of the
20 alleged violation;



1 (4) Extrinsic evidence that the person operating the motor
2 vehicle was not the registered owner of the vehicle at
3 the time of the alleged violation; or

4 (5) Presenting, prior to the return date established on
5 the citation or summons issued pursuant to this Act, a
6 letter of verification of loss from the police
7 department indicating that the vehicle had been
8 reported stolen, to the court adjudicating the alleged
9 violation.

10 SECTION 9. Failure to comply with summons or citation;
11 rebuttal of identification of operator. (a) If the registered
12 owner of the vehicle does not return an answer in response to a
13 summons or citation within a period of fifteen days upon receipt
14 of the summons or citation, the district court shall issue,
15 pursuant to section 291D-7(e), Hawaii Revised Statutes, a notice
16 of entry of judgment of default to the registered owner of the
17 vehicle, except if the registered owner rebuts the
18 identification of the operator of the vehicle.

19 (b) The registered owner shall be given an opportunity by
20 the district court to rebut the identification of the registered
21 owner of the vehicle.



1 SECTION 10. **Liability for rental or U-drive vehicle.**

2 Notwithstanding any law to the contrary, if the registered owner
3 of record is the lessor of a rental or U-drive motor vehicle, as
4 defined in section 286-2, Hawaii Revised Statutes, pursuant to a
5 written lease agreement, the lessee at the time of the violation
6 shall be responsible for the summons or citation; provided that:

7 (1) The lessor shall be responsible for the summons or
8 citation if the lessor does not provide the court
9 having jurisdiction over the summons or citation with
10 the name and address of the lessee within thirty days
11 after a notice containing the date, time, and location
12 of the violation and the license number of the vehicle
13 is sent to the lessor; and

14 (2) The administrative judge of the court having
15 jurisdiction over the summons or citation may waive
16 the requirement of providing the name and address of
17 the lessee and impose on the lessor an administrative
18 fee of \$50 per citation.

19 SECTION 11. **Penalty.** The penalties for all consequences
20 of a violation for disregarding a steady red signal initiated by
21 the use of a photo red light imaging detector system shall be as
22 provided in section 291C-161, Hawaii Revised Statutes.



1 SECTION 12. **Fines for unauthorized disclosure.** (a) The
2 information obtained by a photo red light imaging detector, and
3 any other information arising therefrom, shall be confidential
4 for purposes of law enforcement and court proceedings.

5 (b) Any officer, employee, or agent of a county who
6 intentionally discloses or provides a copy of personal and
7 confidential information obtained from a photo red light imaging
8 to any person or agency, with actual knowledge that disclosure
9 is prohibited by the statutory provisions set forth in this Act,
10 shall be fined up to \$1,000; provided that the fine shall not
11 preclude the application of penalties or fines otherwise
12 provided for by law.

13 SECTION 13. **Photo red light imaging detector program**
14 **account established.** (a) There is established, as a special
15 account within the general fund, a photo red light imaging
16 detector program account, into which shall be paid revenues
17 collected pursuant to this Act.

18 (b) All fines collected under this Act shall be deposited
19 into the photo red light imaging detector program account.
20 Moneys in the account shall be expended by the county in which
21 the fine was imposed, for purposes including the establishment,



1 operation, management, and maintenance of a photo red light
2 imaging detector system.

3 SECTION 14. Rules. The department shall adopt rules
4 pursuant to chapter 91, Hawaii Revised Statutes, as may be
5 necessary to implement this Act.

6 PART II

7 SECTION 15. Section 291C-161, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§291C-161 Penalties[-]; photo red light imaging detector
10 system fines. (a) It is a violation for any person to violate
11 any of the provisions of this chapter, except as otherwise
12 specified in subsections (c) and (d) and unless the violation is
13 by other law of this State declared to be a felony, misdemeanor,
14 or petty misdemeanor.

15 (b) Except as provided in subsections (c) and (d), every
16 person who violates any provision of this chapter for which
17 another penalty is not provided shall be fined:

- 18 (1) Not more than \$200 for a first conviction thereof;
- 19 (2) Not more than \$300 for conviction of a second offense
20 committed within one year after the date of the first
21 offense; and



1 (3) Not more than \$500 for conviction of a third or
2 subsequent offense committed within one year after the
3 date of the first offense[+];

4 provided that upon a conviction for a violation of section
5 291C-12, 291C-12.5, 291C-12.6, or 291C-95, the person shall be
6 sentenced in accordance with that section.

7 (c) Every person convicted of violating section 291C-12,
8 291C-12.5, 291C-12.6, 291C-95, or 291C-105 shall be sentenced in
9 accordance with [~~these sections.~~] that section.

10 (d) Every person who violates section 291C-13 or 291C-18
11 shall:

12 (1) Be fined not more than \$200 or imprisoned not more
13 than ten days for a first conviction thereof;

14 (2) Be fined not more than \$300 or imprisoned not more
15 than twenty days or both for conviction of a second
16 offense committed within one year after the date of
17 the first offense; and

18 (3) Be fined not more than \$500 or imprisoned not more
19 than six months or both for conviction of a third or
20 subsequent offense committed within one year after the
21 date of the first offense.



1 (e) The court may assess a sum not to exceed \$50 for the
2 cost of issuing a penal summons upon any person who fails to
3 appear at the place within the time specified in the citation
4 issued to the person for any traffic violation.

5 (f) The court may require a person who violates any of the
6 provisions of this chapter to attend a course of instruction in
7 driver retraining as deemed appropriate by the court, in
8 addition to any other penalties imposed.

9 (g) Fines collected for violation of section 291C-32
10 pursuant to the photo red light imaging detector system
11 established pursuant to Act _____, Session Laws of Hawaii 2007,
12 shall be deposited into the photo red light imaging detector
13 system program account and shall be expended by the county in
14 which the fine was imposed, for purposes including the
15 establishment, operation, management, and maintenance of a photo
16 red light imaging detector system."

17 SECTION 16. Section 291C-163, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) This chapter shall not be deemed to prevent counties
20 with respect to streets and highways under their jurisdiction
21 from:



- 1 (1) Regulating or prohibiting stopping, standing, or
- 2 parking except as provided in section 291C-111;
- 3 (2) Regulating traffic by means of police officers or
- 4 official traffic-control devices;
- 5 (3) Regulating or prohibiting processions or assemblages
- 6 on the highways;
- 7 (4) Designating particular highways or roadways for use by
- 8 traffic moving in one direction;
- 9 (5) Establishing speed limits for vehicles in public
- 10 parks;
- 11 (6) Designating any highway as a through highway or
- 12 designating any intersection as a stop or yield
- 13 intersection;
- 14 (7) Restricting the use of highways;
- 15 (8) Regulating the operation and equipment of and
- 16 requiring the registration and inspection of bicycles,
- 17 including the requirement of a registration fee;
- 18 (9) Regulating or prohibiting the turning of vehicles or
- 19 specified types of vehicles;
- 20 (10) Altering or establishing speed limits;
- 21 (11) Requiring written accident reports;
- 22 (12) Designating no-passing zones;



- 1 (13) Prohibiting or regulating the use of controlled-access
- 2 roadways by any class or kind of traffic;
- 3 (14) Prohibiting or regulating the use of heavily traveled
- 4 streets by any class or kind of traffic found to be
- 5 incompatible with the normal and safe movement of
- 6 traffic;
- 7 (15) Establishing minimum speed limits;
- 8 (16) Designating hazardous railroad grade crossing;
- 9 (17) Designating and regulating traffic on play streets;
- 10 (18) Prohibiting pedestrians from crossing a roadway in a
- 11 business district or any designated highway except in
- 12 a crosswalk;
- 13 (19) Restricting pedestrian crossing at unmarked
- 14 crosswalks;
- 15 (20) Regulating persons propelling push carts;
- 16 (21) Regulating persons upon skates, coasters, sleds, and
- 17 other toy vehicles;
- 18 (22) Adopting and enforcing such temporary or experimental
- 19 regulations as may be necessary to cover emergencies
- 20 or special conditions;
- 21 (23) Adopting maximum and minimum speed limits on streets
- 22 and highways within their respective jurisdictions;



1 (24) Adopting requirements on stopping, standing, and
2 parking on streets and highways within their
3 respective jurisdictions except as provided in section
4 291C-111;

5 (25) Implementing a photo red light imaging detector system
6 pursuant to Act _____, Session Laws of Hawaii 2007; or

7 ~~[(25)]~~ (26) Adopting ~~[such]~~ other traffic regulations as
8 ~~[are]~~ specifically authorized by this chapter."

9 SECTION 17. Section 291C-165, Hawaii Revised Statutes, is
10 amended by amending subsection (b) to read as follows:

11 "(b) In every case when a citation is issued, the original
12 of the citation shall be given to the violator; provided that:

13 (1) In the case of an unattended vehicle, the original of
14 the citation shall be affixed to the vehicle as
15 provided for in section 291C-167; ~~[e]~~

16 (2) In the case of:

17 (A) A vehicle utilizing the high occupancy vehicle
18 lane illegally; or

19 (B) A vehicle illegally utilizing a parking space
20 reserved for persons with disabilities, where the
21 violator refuses the citation; or



1 (3) In the case of a motor vehicle determined by a photo
 2 red light imaging detector system established pursuant
 3 to Act , Session Laws of Hawaii 2007, to have
 4 disregarded a steady red signal in violation of
 5 section 291C-32(a) (3) ;

6 the original of the citation shall be sent by certified or
 7 registered mail, with a return receipt that is postmarked within
 8 forty-eight hours of the time of the incident, as provided in
 9 section 291C-223 for vehicles illegally utilizing the high
 10 occupancy vehicle lane, or to the registered owner of the
 11 vehicle at the address on record at the vehicle licensing
 12 division for vehicles disregarding a steady red signal in
 13 violation of section 291C-32(a) (3), as determined by means of a
 14 photo red light imaging detector system, or within seventy-two
 15 hours of the time of the incident for vehicles illegally
 16 utilizing a parking space reserved for persons with
 17 disabilities, to the registered owner of the vehicle at the
 18 address on record at the vehicle licensing division. If the end
 19 of the applicable forty-eight or seventy-two hour period falls
 20 on a Saturday, Sunday, or holiday, then the ending period shall
 21 run until the end of the next day which is not a Saturday,
 22 Sunday, or holiday; provided that the administrative judge of



1 the district courts may allow a carbon copy of the citation to
2 be given to the violator or affixed to the vehicle and provide
3 for the disposition of the original and any other copies of the
4 citation."

5 SECTION 18. It is the intent of this Act not to jeopardize
6 the receipt of any federal aid nor to impair the obligation of
7 the State or any agency thereof to the holders of any bond
8 issued by the State or by any such agency, and to the extent,
9 necessary to effectuate this intent, the governor may modify the
10 strict provisions of this Act, but shall promptly report any
11 such modification with reasons therefore to the legislature at
12 its next session for review.

13 SECTION 19. If any provision of this Act, or the
14 application thereof to any person or circumstance is held
15 invalid, the invalidity does not affect other provisions or
16 applications of the Act which can be given effect without the
17 invalid provision or application, and to this end the provisions
18 of this Act are severable.

19 SECTION 20. This Act does not affect rights and duties
20 that matured, penalties that were incurred, and proceedings that
21 were begun, before its effective date.



1 SECTION 21. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$, or so
3 much thereof as may be necessary for fiscal year 2007-2008, and
4 the same sum, or so much thereof as may be necessary for fiscal
5 year 2008-2009, for implementation and operation of the pilot
6 photo red light imaging detector system.

7 The sums appropriated shall be expended by the city and
8 county of Honolulu.

9 SECTION 22. Upon enactment, the revisor of statutes shall
10 insert the number of this Act into sections 291C-161, 291C-163,
11 and 291C-165, Hawaii Revised Statutes, where indicated in
12 sections 15, 16, and 17 of this Act, respectively.

13 SECTION 23. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 24. This Act shall take effect July 1, 2050, and
16 shall be repealed on July 1, 2010; provided that section 21
17 shall take effect on July 1, 2007; and provided further that
18 sections 291C-161, 291C-163(a), and section 291C-165(b), Hawaii
19 Revised Statutes, shall be reenacted in the form in which they
20 read on the day before the effective date of this Act.



Report Title:
Highway Safety

Description:
Establishes a three-year pilot photo red light imaging systems program in any county with a population in excess of 500,000. Sunsets 7/1/2010. Makes appropriation. (SD1)

